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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

MELISSA JAYNE CALICE,

Plaintiff,

vs.

File No. 12-017215-DZ-1

RICHARD ANTHONY CALICE, JR.,

Defendant.

HEARING

BEFORE THE HONORABLE FRED L. BORCHARD, CIRCUIT JUDGE

Saginaw, Michigan - December 18, 2014

APPEARANCES:

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For Defendant: IN PRO PER

Also Present: Sue Prine and Brittany Dougherty
Saginaw Count Friend of the Court

Reported by: TRACY M. STEMLER, CSR-4023
Official Court Reporter

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1 Saginaw, Michigan

2 December 18, 2014

3 THE COURT: Good morning.

4 MR. MCLEOD: Good morning.

5 FRIEND OF THE COURT: Good morning, your
6 Honor.

7 THE COURT: If we could have appearances and
8 introductions for the record so the record's complete.

9 MR. MCLEOD: For the record, Tim McLeod here
10 on behalf of Melissa who is the plaintiff in this
11 matter.

12 FRIEND OF THE COURT: Your Honor, Sue Prine,
13 Friend of the Court, and Mr. Calice is here, not
14 represented. He had Tom Demetriou representing him.
15 He withdrew on November 5th, and also here are the two
16 staff members from the Friend of the Court, Korina
17 DeCastro and Brittany Dougherty.

18 THE COURT: As I recall, this case is set for
19 January.

20 MR. MCLEOD: January 6th trial date, your
21 Honor.

22 THE COURT: Mr. McLeod, do you mind me
23 calling you first as Plaintiff to bring the Court up to
24 date, please?

25 MR. MCLEOD: Your Honor, I believe the matter

1 is before the Court on a petition that Miss Prine --

2 FRIEND OF THE COURT: And I do have a
3 history, Judge, or a summary.

4 THE COURT: All right. If you're comfortable
5 with that, one or the other.

6 FRIEND OF THE COURT: Judge, the reason we
7 brought this before the Court on an emergency basis is
8 because of what started to transpire on Friday,
9 December 12th.

10 There were emails sent from Mr. Calice to the
11 principal -- elementary school principal at Hemmeter
12 Elementary School, which is in Saginaw Township school
13 district. It is the gifted and talented children where
14 Rocco, one of the kids, attends.

15 I was copied in on emails, so I received
16 those. I had already left the office, so Mr. Jim
17 Bailey, the principal, contacted me because he was kind
18 of in a dilemma, did not really know what to do about
19 the email because Mr. Calice had said he wanted to meet
20 with Mr. Bailey about what Mr. Calice said was sexual
21 abuse on his son.

22 This was the first that Mr. Bailey heard
23 about this. He had not heard about this at all. Of
24 course, that raises some concerns because Mr. Calice
25 says his son revealed to him over the Thanksgiving

1 holiday when he had him -- he lives in Maryland,
2 Mrs. Calice lives here -- that one of the other kids at
3 school had bit, with his mouth, bit Rocco on his penis,
4 and he thought whoever this was related to at the
5 school should have been reported to Protective
6 Services, it should have been reported to Mr. Bailey,
7 the principal.

8 Mr. Bailey did some investigating. I'm just
9 going to summarize these emails. He did some
10 investigating, didn't find that this child had reported
11 any of this.

12 Mr. Calice said that it happened -- it was
13 reported by his son, told to him over Thanksgiving
14 holidays this year, but it happened last year. There
15 wasn't any report of this. There seemed to be some
16 indications from Mr. Calice in his email that something
17 was mentioned to you, Judge, about the child bullying.
18 I can't imagine the child would use the word bullying,
19 but maybe something -- I wasn't there. Maybe something
20 came up about a kid picking on him at school, and
21 Mr. Calice said this -- he revealed this to his mother.

22 I talked to Mrs. Calice and she said, you
23 know, I knew there was some issues at school. I --
24 my -- I don't know if the child mentions to her that a
25 kid bit him. Apparently they're friends. They were

1 roughhousing on the playground.

2 She went and talked to one of the staff
3 members. I think it was -- it wasn't the principal, it
4 was the teacher, didn't mention about the biting, just
5 said, look it, they're not getting along, this kid
6 might be picking on my son, so they dealt with it
7 there. That's what happened. It was nothing. That
8 should have -- really could have had -- could have been
9 resolved there and that they were going to try to keep
10 the kids separate and kind of keep an eye on that. So
11 Mr. Calice thinks it should have been reported and that
12 the school covered this up. I don't think that
13 happened.

14 Mr. Bailey is here in the courtroom, and
15 Mindy Worden is the detective from the Saginaw Township
16 Police Department who heard about this. It was
17 reported to her, I don't know if by Mrs. Calice or a
18 friend of hers or something, and that these kids were
19 roughhousing on the playground and they fell on each
20 other and that apparently one of the kids just -- it
21 didn't hurt Rocco -- had bit him. It happened to be in
22 the crotch area. She didn't think this was anything
23 like sexual abuse whatsoever. It stopped.

24 THE COURT: That's Miss Worden?

25 FRIEND OF THE COURT: Detective Mindy Worden

1 indicated this to me.

2 Mrs. Calice, I don't know how word got to
3 her, but just that, you know, what's the deal here, and
4 she said, look, based on that, there's no concern here.
5 But, anyway, Mr. Calice was going to show up at the
6 school today, wasn't really -- when all these emails
7 started, he, when he was in town, was going to see
8 Mr. Bailey and to look into this. We didn't know when
9 he was going to show up.

10 So Mr. Bailey called me on my cell phone. He
11 said I'm really uncomfortable about him meeting with me
12 without some court personnel there, which probably
13 would be me or one of the other staff attorneys.

14 Now, I said let me just notify the Judge and
15 maybe the Judge would like to have a hearing on this.
16 Maybe that's the best thing to do first to deal with
17 this, so that's when we finally got a date and time for
18 today's date, and I thank you for letting us
19 interject -- or take your time on your very busy day.

20 But, anyway, Judge, the -- Mr. Bailey
21 explained to me, you know, Mr. Calice has been in our
22 office before. Every time he's here, he tapes
23 everything, everything, and he makes staff
24 uncomfortable, makes him feel a little -- makes him
25 feel a little bit intimidated, but they're very

1 uncomfortable to the point when he comes there, they
2 immediately contact Mr. Bailey, so this happens on an
3 ongoing basis.

4 When he came to the courthouse today, I was,
5 you know -- he wanted permission to bring in a camera,
6 bring in the news and everything else. I didn't
7 respond to that other than, look it, I'm just getting a
8 date and time. I don't make those -- I don't give
9 those permissions, and I don't believe he has any
10 electronic equipment on him, and his parents are here,
11 and I'm assuming --

12 THE DEFENDANT: We followed the rules. Do I
13 get a chance to --

14 FRIEND OF THE COURT: You're going to get a
15 chance to talk as is the other side. And I don't
16 represent you. I'm with the Friend of the Court
17 office. I'm just trying to do a summary and you can
18 disagree with it or add to it.

19 Okay. So, Judge, then he thought the Court
20 was covering something up, that things weren't reported
21 from the school to the Court. Nobody was aware of this
22 from the Court. Nobody was aware of this from the
23 school. How could it be reported? If it was mentioned
24 in Court, Miss Calice took care of this by going to the
25 school and talking about possibly picking on her child

1 and things. It was a done deal. Things were taken
2 care of according to Mrs. Calice.

3 Here's my -- I got -- I have these emails,
4 but that, Judge, basically gives you a summary of the
5 email exchange. I have Mr. Bailey here. He totally
6 investigated this after getting this information for
7 the first time on the 12th from Mr. Calice. Mr. Bailey
8 investigated it. Nothing, nothing had been reported
9 about any type of sexual abuse whatsoever, and he
10 talked to everyone.

11 Now, Mr. Calice also said he wanted Henry
12 Reyna here because he's a township officer that deals
13 with the schools a lot. He's in Florida, but he claims
14 that -- that the deputy pulled Rocco aside because of
15 this, what had happened, and was investigating this.

16 Actually, what happened on that day from what
17 I'm being told by Mr. McLeod through his client, it was
18 Career Day. The child expressed an interest in being a
19 police officer, and Mr. Reyna, our detective, or Deputy
20 Reyna, talked to him about that. That was all that
21 happened. That's what I'm being told. I don't have
22 firsthand knowledge of that, but that is what I'm being
23 told.

24 The -- Mr. Calice also told -- at times, he
25 copied the superintendent of Saginaw Township Schools.

1 He doesn't know anything about this. Mr. Bailey is the
2 one that can give you kind of a history of what he did.

3 And by the way, he mentioned that this
4 child's doing so good in school, he's been on his ADH
5 medicine and he is doing great. That's been an issue,
6 the ADH medication, because Mr. Calice thinks that it's
7 a misdiagnosis. He's not a physician, but he thinks
8 it's a misdiagnosis. He's upset because an ex-parte
9 order was entered, allowing the doctors to prescribe
10 the medication to keep the child on the medication that
11 he has been on, and so the doctors wouldn't prescribe
12 it.

13 They were worried about liability because he
14 has joint legal custody and would have to agree to
15 this, and there have been issues in the past about
16 possible violations of joint legal custody even by the
17 plaintiff because she sought out counseling, sought out
18 psychological evaluation and got a prescription without
19 Mr. Calice's involvement, which I want to talk to just
20 a little bit about, joint legal custody, in just a
21 second.

22 He also stated I think in the last email
23 along the end that when he came to town, he was going
24 to talk to this perpetrator who bit, supposedly, the
25 child on the penis. This is a little kid. I'm not

1 really sure that he should be doing that. I don't
2 think -- he reported it. It didn't reach to the level
3 of getting reported or investigated. I'm concerned
4 about that, Judge.

5 Now, let me just speak to the joint -- first
6 of all, related to school, this is going to be
7 continuing. We are coming up on the holidays. His
8 holiday time starts on the 26th for the rest of the
9 Christmas break. There's no -- parents can normally go
10 to the school, but in this particular case, Judge, I
11 don't want to get calls during the holidays that
12 there's problems, though obviously he would have the
13 kids on the 26th, but this is going to be ongoing.
14 It's a problem.

15 This case started in 2012, and it's still not
16 over. A separate maintenance was filed. It's still
17 not over. They have been in court so many times,
18 Judge, on so many parenting time issues, they don't
19 agree on anything. They don't communicate. One's here
20 and one's here. They don't communicate.

21 This lady went and got -- saw that this child
22 needed help. Maybe she should have contacted Mr.
23 Calice. It's joint legal but they don't communicate,
24 and she did this to help her child because he was
25 struggling. He's doing great in school again according

1 to Mr. Bailey. So they don't communicate at all.

2 Joint legal custody is agreed to so many
3 times because it's a bargaining thing that tries to get
4 a case settled, joint legal custody, and the statute
5 says for parties who are able to cooperate and
6 generally agree concerning important decisions
7 affecting the welfare of the child.

8 There is a case I just found out before I
9 came over here, Judge, so I don't have the cite. It's
10 out of Oakland County, Royce versus Royce. It says the
11 Court -- and it would not order joint legal. It says
12 finally, when the Court noted that the record reflected
13 a deep-seated animosity between the parties and a
14 divergence in their opinions about how to foster the
15 children's well-being, these issues affected even their
16 ability to make a civil parenting time exchange, which
17 has been -- and you remember, Judge, that's been a
18 problem in this case.

19 There's going to be issues. I think
20 Mr. Calice isn't going to give him his ADH medication
21 over the holidays. I don't know, but he thinks it's a
22 misdiagnosis. That's an issue that we had.

23 And, Judge, I just briefly want to mention I
24 received pictures of a slide show that Mr. Calice sent
25 the school, and I got it from Mr. McLeod who verified

1 from the principal, Mr. Bailey, that, yes, he did get
2 this, and, Judge, basically -- I don't know if this
3 maybe verges on slander -- he accuses you, he accuses
4 me, Tim McLeod which he often refers to as Timmy,
5 brings up things in 1979 personally involving Timmy, he
6 says, says the panel up in Midland County that dealt
7 with that situation are misfits. He mentions
8 Mr. McLeod's secretary, Jill Bender. He mentions the
9 school. I mean I don't know where this is going, but,
10 ultimately, he says we're guilty of child endangerment,
11 child kidnapping.

12 There was a jurisdictional issue. This was
13 resolved. You talked to the Judge in Maryland, and it
14 was resolved at the beginning of this case that you
15 would have jurisdiction. There is no kidnapping here.

16 And basically, at the end, he says that all
17 of us -- he said the principal -- he's not referring
18 just to Mr. Bailey. He's referring to all of us, I
19 believe. He says we've violated the principle. We
20 ✓ failed to report abuse. We have caused child
21 endangerment, refused to verify the safety of the ✓
22 child, we have committed kidnapping, embezzlement,
23 assault, prescription abuse, identity fraud, conspiring
24 to commit a crime, faulty diagnosis of ADHD, failure to
25 report, voter identification and fraud. By the way,

1 Judge, that slide show is online on Wicky Space. It's
2 stated right here in an email that he sent to
3 Mr. Bailey.

4 I'm very concerned, Judge. I'm not afraid of
5 this man. Maybe after how I made these statements,
6 maybe I should be, I don't know, but here's what I'm
7 suggesting. And I told Mr. Calice this is to deal with
8 these emails, but when I read these emails, I looked
9 into this because I'm very concerned.

10 I believe, Judge, that joint legal custody is
11 an issue here. It shouldn't be decided sole legal to
12 Mom on a permanent basis. It should be reserved for
13 trial on this case, but, in the meantime, I think she
14 should have joint legal custody -- I'm sorry, sole
15 legal custody of these kids.

16 Not only that, Judge, because there is an
17 issue on the joint legal and Jill Hogenson has
18 recommended that, I think she needs to revisit this. I
19 think it needs to be sent back to Miss Hogenson. I
20 don't know what she will do. Maybe she'll award sole
21 legal to Mr. Calice. It's not up to me, Judge, but it
22 needs to be looked at again.

23 Not only that, I spoke with Jill Hogenson,
24 and I really think that this man -- I'm concerned about
25 his stability. I think he should be referred to Ken

1 Bertram for a psychological evaluation before Jill
2 interviews. He's a fully licensed psychologist.

3 I talked to him yesterday. He can get this
4 gentleman in either the 6th, in an evening visit of
5 January, the 8th, in an evening visit of January, so if
6 he doesn't get done, he might have to bring him twice.
7 He has all day on Saturday, the 10th, to get it done,
8 and he can get this back to you and filed within 30
9 days of that interview, so I'm suggesting that.

10 I'm suggesting that he pay for the
11 psychological. I don't know what it is. I can give
12 him the information on how to get ahold of Ken Bertram.
13 He can discuss that with him. I think that the joint
14 legal issue to Miss Hogenson should be split between
15 the parties. I also think that the -- Mr. Calice
16 should not be allowed on any property, not just
17 Hemmeter but of all the Saginaw Township school
18 district, because I'm afraid if we limit it to
19 Hemmeter, he'll be over at the central office at
20 Heritage High School talking to the superintendent
21 because his name is copied in here.

22 I don't think he should be allowed on that
23 property at least right now. This is to protect the
24 school. They're not going to know what to do if he
25 shows up over there, especially with all these emails,

1 the content of the emails. I don't think he should
2 call them. He tapes everything. He records my
3 conversations. I really don't care. I didn't say
4 anything wrong. I didn't get to listen to them. I
5 couldn't bring them up.

6 THE COURT: What are those other things?

7 FRIEND OF THE COURT: This is the slide.
8 This is what's on the internet. This slams you.

9 THE COURT: Let me see that.

10 MR. MCLEOD: Can we have that marked and
11 presented as evidence?

12 FRIEND OF THE COURT: Hold on just a minute.
13 I don't think he should be able to call the school. He
14 certainly has access to records. He can write them and
15 ask them for reasonable requests, not harassing,
16 writing them all the time. He can get into what they
17 call Skyward. He can get into the computer from home.
18 He can check their attendance and progress, their
19 grades, any disciplinary, anything like that.

20 Maybe he has already done that. There is a
21 way to communicate with the school that way, not
22 appearing, no phone calls, but he can do writing and he
23 can go on Skyward.

24 Now, Judge, the only other thing, I'm very
25 concerned about these kids going with him for Christmas

1 break. Maybe I shouldn't be, but I have to state that
2 so I cover myself if anything happens. That is my
3 opinion. I think it should be suspended until we get
4 done with this. I think the trial should be set as
5 soon as possible, adjourned and maybe set over 30 days
6 from the date of Ken Bertram's interview because he has
7 assured me he will get that psych in before.

8 Jill will need time. She can communicate
9 with him. I'm sure Jill can review her records and
10 review these and get her report in just on that single
11 issue pretty quickly, Judge.

12 I want to point out one more thing. It was
13 probably one of the last -- these are the emails. They
14 probably should be marked, too. The last thing on here
15 he sent, he attached his picture because I think he
16 wanted you to remember who he was, but he put on
17 here --

18 THE COURT: He attached what?

19 FRIEND OF THE COURT: He attaches an email
20 which he sends to me and Mr. Bailey, his picture which
21 was taken when he was arrested and jailed for so many
22 days until he paid a certain amount of money in child
23 support, so they take his picture in booking here, but
24 it says on here, by the way, here is an updated photo
25 for Honorable Borchard's desk. I hope that looking at

1 it will remind him of the serious Saginaw child
2 endangerment. This is the type of thing that happened
3 in Saginaw with Saginaw sponsors kidnapping.

4 Now, he's got pictures of kids, kind of stick
5 pictures, and he's got them in other emails. This is a
6 little different. He's got a picture of the Saginaw
7 County seal and he's got a picture of a bomb pointed,
8 exploding to the Saginaw County seal, and he's got a
9 circle on one of these stick people that's a target.
10 That is concerning to me. I'm concerned about you,
11 Judge. I'm concerned about anybody involved in here.

12 Now, am I concerned? I'm going to be the one
13 that's the most concerned because he's not very happy
14 with what I'm saying right now, I'm sure. I am done.

15 I want this marked as an exhibit, also, and I
16 know Mr. Calice wants to address the Court and I know
17 Mr. McLeod wants to address the Court. Mr. Bailey is
18 in the courtroom and, also, Detective Worden is in the
19 courtroom.

20 (Defendant's Proposed Exhibit Numbers 1 and 2
21 marked for identification purposes.)

22 THE COURT: Would you show those to this
23 gentleman? I just want to know if those are yours.
24 Did you generate those?

25 THE DEFENDANT: These are -- these are --

1 these emails were generated by me. The pictures and
2 the content are all public from online sources. I just
3 collated them in one place, see comments about
4 Mr. McLeod that were cited. They did not -- those were
5 not generated by me. Those were for -- this is from --

6 THE COURT: What about the bomb?

7 THE DEFENDANT: That is from -- that is from
8 Fawn Osmond. It's an open source site. That is to
9 indicate danger. It's a standard one for -- we use
10 this at Homeland Security. When we were -- we are
11 describing issues, we use, you know, androgenous
12 characters, and that is a universal symbol for --

13 THE COURT: What about the target on the --

14 THE DEFENDANT: The target is to point where
15 the offense happened. It was on the genital area,
16 indicating that -- the area where Rocco said that he
17 was assaulted.

18 THE COURT: And why the picture?

19 THE DEFENDANT: The picture, your Honor,
20 when -- do you remember, you met my son. You see a lot
21 of people, but you were nice enough to meet my son last
22 year, and this was -- I learned about it for the first
23 time along with the Court that Rocco had told you that
24 he was being bullied by someone named Hall. You
25 thought perhaps he meant to say Paul because it was an

1 odd-sounding name. From that, you assured my son that
2 you would look into this.

3 I was -- I was concerned and immediately
4 relieved to find out that I learned of this bully right
5 alongside the Saginaw Courts, and that was a bad --
6 that was a bad thing for that bully.

7 When my son and I attended -- my son shared
8 with me, during Thanksgiving -- there was -- we talked
9 about good luck and bad luck, and Rocco said that he
10 had bad luck when he was taken to Saginaw and this boy
11 bit him on the penis, and at that point, I
12 immediately -- I had to confirm this on speaker phone.
13 I called -- I called Melissa saying, Melissa, with
14 Rocco, Rocco's telling -- and he said that Hall bit me
15 on the penis and Mom keeps on forgetting to tell the
16 principal.

17 I called Melissa with Rocco so he could hear
18 this, and that was the only way I could verify.
19 Melissa confirmed that Rocco had talked to her about
20 this, and she said if I wanted to go any further, I
21 needed to go talk to Mr. Bailey, which now seems like a
22 set-up.

23 The concerns that I have is during this year
24 in question, Rocco missed 18 days of school, which is a
25 telltale sign -- it's a warning indicator. Students

1 that miss 10 percent or more of the school year, which
2 this certainly is, are at high risk. They perform
3 worse in academics, specifically in reading, than their
4 peers do, which would explain why Rocco's poor
5 performance was. During the time of our hearing --
6 should I be standing?

7 THE COURT: You could.

8 THE DEFENDANT: And thank you for arranging
9 this. I'm here without representation, but I'm very
10 concerned. My son did everything. I'm so proud of
11 him. He was -- he was bullied. He did not himself
12 become a bully to his sister. He told the school
13 supervisor, who I -- I don't know who this was. I
14 can't verify that. He told his mother, and, your
15 Honor, I don't know what -- he had the presence of
16 mind.

17 I don't know if you recall, but he spoke with
18 you about this, about this person as well, this Hall.
19 He identified him to you. I asked him, did you tell
20 the Judge? Did you -- he did. We call you The Wise
21 Man, all the attorneys and everyone The Wise Man. Did
22 you tell The Wise Man about this, and he said I was
23 told that it's not appropriate to talk about -- I don't
24 know what the word was but like to talk about body
25 parts, or whatever. I did not -- I thought -- I asked

1 if his mom had told him that, and Rocco said no, she
2 did not.

3 So the reason for my concern is, one, that
4 bully that Rocco form -- I hope you remember my son.
5 You meet so many people, but he --

6 THE COURT: I remember Rocco.

7 THE DEFENDANT: -- informed you about this
8 bully. It was in -- the court record will show it was
9 mentioned. You mentioned this Hall by name and this
10 school be contacted.

11 Principal Bailey has no idea about this so he
12 could not -- if he was contacted by this Court, he did
13 not remember being contacted by this Court. And it
14 concerns me. It made me angry. I'm not allowed to be
15 angry because I'm being a -- representing myself, but
16 it made me angry, this bully, that this could have been
17 avoided. This bully was found and identified and not
18 looked into.

19 And I hope today to find out that my son is
20 lying. I would be delighted to find out that my son is
21 lying, but I'm concerned, and my intention for this
22 bully that's doing this to him -- this is not an
23 isolated incident. A seven-year-old wouldn't do that
24 unless that is being done to him.

25 Sexual abuse, it is an epidemic, and if this

1 is happening to Rocco from a seven-year-old, it's more
2 than likely that this seven-year-old is having it
3 happen to him and he needs to be talked to as well, is
4 anyone doing this to you. I am concerned about the
5 well-being of that bully. It would be different if
6 that bully was a grown man.

7 THE COURT: So let's go one at a time. So
8 you're saying you did talk to your wife -- let me
9 finish -- about the fact that he got bit on the penis?

10 THE DEFENDANT: Yes.

11 THE COURT: Ma'am.

12 THE PLAINTIFF: Can I give some back story
13 about the conversations between my son and I?

14 THE COURT: Go ahead.

15 THE PLAINTIFF: So Rocco, there was a little
16 boy in his class who they have had kind of like a
17 love/hate relationship. They play together and then
18 they fight, then they play together and then they
19 fight, and the fighting would take place in like
20 loosely-structured time at school, like recess.

21 So one day Rocco -- it was last winter. He
22 was in the back seat, I'm driving, and he said Mom,
23 Hall and I were fighting and Hall bit me, bit me on my
24 penis, and I said what? And I said are you okay? And
25 he said yes. I said do you have a mark? And he said

1 no. And I said, well, where were you?

2 I'm a school social worker. I feel very
3 comfortable talking to kids about everything because
4 that's what I do for a living, so here I am with my
5 son. I said do you -- where were you? Well, we were
6 outside. What were you doing? We were playing. Where
7 were your pants?

8 So what I came up with was that the boys were
9 playing, roughhousing, which is age-appropriate for
10 first-grade boys to be roughhousing. They needed to be
11 separated and handled by adults, but in no way, shape,
12 or form did this put off like a warning bell about my
13 son being sexually assaulted. For -- to me, it was
14 age-appropriate play with little boys that needed to be
15 managed.

16 So at conferences, I talked to Lisa Morford
17 who is his teacher at the time, and I said, okay,
18 what's going on with Rocco and Hall? We decided
19 together that Rocco needed to find somebody else to
20 play with. There are lots of kids to play with. Go
21 find somebody else to play with, and it was handled.

22 The fact that the word sexual assault is
23 being brought into this is so distracting to us as
24 adults, and I think intentionally so, and it is not in
25 any way, shape, or form qualifying as a sexual assault.

1 He keeps talking about how the children -- how Rocco
2 was sexually assaulted, and that is not the case.

3 He was playing with another boy rough. He's
4 a little boy. He's got a lot of energy. He and this
5 little boy were like oil and water together. It was
6 handled by myself, the mother, and I talked to the
7 teacher and it was done.

8 Now, on Thanksgiving, I was driving with my
9 mother to pick the kids up in Maryland. Tony said you
10 could pick them up at 6:00 o'clock at my house in
11 Maryland if you want, which meant they missed school on
12 Monday, and Tony sent me a text message that said were
13 you going to tell me about Rocco being sexually
14 assaulted.

15 So as any mother, you know, I started to go,
16 oh, my gosh, what is this, but then keeping in mind who
17 I'm dealing with and his behavior over the past couple
18 years, which is just getting more and more scary and
19 more and more bizarre, I said let's talk about this.
20 Of course we'll talk about this but very apprehensive,
21 like feeling like I'm getting backed into a corner, and
22 I called him.

23 I could hear he had me on speaker phone. The
24 children were there. I could hear them saying hi, Mom,
25 hi, Mom, and Tony said something about Rocco being

1 sexually assaulted and I said okay, would you take it
2 off speaker, because my kids, who are six and eight,
3 can hear and have no understanding whatsoever about
4 human sexuality or human sexual interaction, who are,
5 you know, taken care of, very sheltered children, and
6 he said nope, nope, everybody needs to hear this.

7 And he said, well, when were you going to
8 tell me that Rocco was sexually assaulted and you
9 didn't do anything about it? You didn't do anything
10 about it. And then he said just like when this
11 happened to you when you were a kid and your mother
12 didn't do anything to save you or to help you,
13 referring to -- I was married to this man. In
14 confidence, I told him about an incident that happened
15 to me as a teenager, and he then takes this information
16 and just warps it and just in the most horrible,
17 horrible, insidious way, and now he's pulling my kids
18 into it, and he's just like --

19 THE COURT: Did you talk to the -- any of the
20 school personnel after you -- about this roughhousing
21 or what was --

22 THE PLAINTIFF: You mean this year or last
23 year?

24 THE COURT: At any time.

25 THE PLAINTIFF: Absolutely. After Rocco sat

1 in the back seat and told me about the incident, it was
2 in the winter and then we had parent/teacher
3 conferences and I went in and sat with the Lisa
4 Morford, and I told Lisa Morford, you know, I like
5 asked and told, you know. We had talked it out
6 together and decided that -- how we would manage it.
7 Hall and Rocco don't need to play together.

8 THE COURT: I want to hear from the
9 detective. Mindy, how did you get involved?

10 THE DEPUTY: I was actually involved in March
11 of this 2014 when I spoke with -- Miss Calice filed a
12 police report regarding some videos she found on U-tube
13 of her children that were posted on U-tube, posted by
14 Mr. Calice, and the video showed the children dancing
15 around wearing only their underwear. The videos were
16 extremely strange, inappropriate to be placed on a
17 public U-tube channel. Unfortunately, they didn't meet
18 the definition of child pornography so our
19 investigation ended at that time.

20 As far as this whole sexual abuse allegation
21 that's been brought up today, I was just made aware of
22 that yesterday through a third party, just, hey, this
23 is being said about this, knowing that I had dealt with
24 the case before. That is not an allegation that was
25 brought to us in a -- for a criminal investigation, so

1 we did not investigate anything, didn't have any
2 reports that that had occurred.

3 THE COURT: Sir, did you call any police
4 agency afterwards and make any reports yourself?

5 THE DEFENDANT: After I -- I began to call --
6 no, your Honor, I did not. On Friday, I was -- my
7 intent was to talk to Principal Bailey, make sure I had
8 a very clear story before I went further.

9 This was my first, in this -- and my
10 understanding is, and I'll -- the Court can correct me
11 if I'm wrong, but this is a state child pro -- if I --
12 I don't know what the next step is. This is my first
13 time having this happen. I just know that a penis is a
14 sex organ and it's not okay for any boy to bite my
15 son's penis.

16 This is not -- this is out of sincere love,
17 and I am disappointed that my son wasn't lying. I wish
18 I -- I was not --

19 THE COURT: Can I see the exhibits? Where
20 are those?

21 FRIEND OF THE COURT: For the record, Judge,
22 on the picture where the bomb is, that is my writing
23 where I -- I drew a line and said bomb. That is not
24 Mr. Calice's writing.

25 THE COURT: Okay. I'm looking at Exhibit 2,

1 Saginaw sponsored kidnapping, supporters of Rocco's law
2 and state sponsored kidnapping. When was this
3 generated? When did you put this together?

4 THE DEFENDANT: It was -- it was generated
5 this past week. I'm trying to -- this is an education
6 site. It's classified as such. There is no money
7 that's paid for it. I have become very interested in
8 understanding the law given my personal -- if I can't
9 help my own children, I would like to be able to have
10 this be an education that can somehow help somebody
11 else in the future.

12 The text that is on there, your Honor, has
13 been found on the web, existed already. I just
14 collected it in one place. The pictures, obviously, I
15 placed those on there, but the text describing the
16 different folks, those are from publicly-available
17 documents that were created by someone else or by this
18 Court that I put in one place.

19 THE COURT: Here's one that says Saginaw
20 attorney Tim McLeod, Sue Kaltenbach county clerk,
21 Saginaw Court Sue Prine.

22 THE DEFENDANT: I have a meeting in Lansing
23 tomorrow, your Honor, with the Attorney General's
24 office just to discuss this and help me understand more
25 about how this system works.

1 THE COURT: Courthouse with question marks.

2 I --

3 MR. MCLEOD: Your Honor, may I offer to make
4 a comment?

5 THE COURT: One second.

6 THE DEFENDANT: I want to make sure you don't
7 take away from the issues that it's Rocco I'm concerned
8 about.

9 THE COURT: I forgot, Mr. McLeod. Is
10 Miss DeCastro here? Anything you want to add or your
11 recollection from this case -- I know you were familiar
12 with this case -- in regards to bullying or anything
13 else you that might remember?

14 FRIEND OF THE COURT: Your Honor, Brittany
15 Dougherty, and I went back to look at case notes.
16 Unfortunately, the date of the hearing back in
17 November, I was not present at that time. It may have
18 been Jill Hogenson. I would need to go back and look
19 at any transcripts, but we have no case notes from that
20 hearing date so I have nothing to add.

21 THE COURT: All right. Well, I got to be
22 honest with you. I mean when you're putting a picture
23 of a bomb on a piece of paper with the insignia of the
24 county of Saginaw and two or three people, exclamation
25 mark, and a target on one of the people on the leg, not

1 like you claimed on the area of the penis in the
2 picture yourself, doesn't this strike you as being a
3 little strange?

4 THE DEFENDANT: There's -- I am -- it is
5 strange. There is -- I'm showing that there's -- and
6 thank you for the emergency hearing -- there's a child
7 endangerment concern. I found out that my son was bit
8 on the penis and this was not shared.

9 There's several other things that I -- I'm
10 not aware of. I do not even know where my children
11 live right now. They moved again, and I do not even
12 know where they're at since we have joint legal
13 custody, but they're being taken to doctors to get
14 diagnoses that could possibly -- that I don't know
15 about. I go to the doctors. It's hard for me to even
16 do a proper transition of care from Michigan to
17 Maryland when the Michigan doctors won't share with me
18 the medications list, orders, or what it is that
19 they're doing.

20 The doctors have false patient history on my
21 children which could potentially be an issue when it
22 comes to skin allergies. I'm concerned. My son has
23 missed the day -- the year that he was doing poorly in
24 school is when his mother, you know -- he missed 18
25 days of school. That's over 10 percent of the school

1 year.

2 And a national truancy initiative called
3 attendance.org, which is funded studies involved, which
4 is why I'm familiar with it, children in the young age,
5 kindergarten and elementary, that miss more than
6 10 percent of the school year do worse in -- and suffer
7 the most in reading. That was why I believe Rocco was
8 doing poor in school.

9 The therapist was completely unaware that
10 Rocco's missing 10 percent of the school year, and none
11 of her recommendations were go to school often and be
12 on time. Her first recommendation was give him a drug,
13 so when I grew up -- so they're not advocating school,
14 they're advocating, well, just treat this symptom,
15 here's a drug. But I believe the root cause is --
16 first of all, sleep is important. I also believe that
17 the other items there, she made a recommendation about
18 some physical activity, but my son's a boy. He needs
19 to be running into the ground, you know, 30 minutes of
20 running around and doing an activity and that's needed
21 to help settle him down for work. I've done that
22 before.

23 The history that's been given to these
24 doctors has been dangerous for my son. My son has a
25 family history of heart issues, a family history of

1 suicide, a family issue of substance abuse. This was
2 withheld from the doctors and the doctors said that my
3 son should take a Class II controlled substance,
4 Adderall, which I learned about from my time in the
5 North Dorm here, has the exact same -- is the -- the
6 folks here -- it's a very powerful drug, and it's not
7 good for anyone with a history of heart issues.

8 And that should have been -- we should have
9 made sure that he was going, that he was not missing
10 10 percent of the school year. I don't know how he can
11 be expected to perform. He shouldn't be measured at
12 the level of other kids. He should have been measured
13 at the level of other kids who were missing 10 percent
14 of the school year.

15 THE COURT: What's going on to -- to time off
16 from school?

17 THE PLAINTIFF: I believe you said what's
18 going on with him missing all the school. He did not
19 miss 18 days of school. He did miss some school. Five
20 days he missed because Tony didn't return him last
21 January, so that would be some time.

22 In addition, Rocco was also seeing Sandy
23 Pfander during that time. Dr. Sandy Pfander has a
24 wonderful reputation and does a great job, and she only
25 works a couple days a week, and so to get Rocco there,

1 sometimes we would pull him out of school early to get
2 him to see Mrs. Pfander or go see, you know, somebody
3 in the morning or go to a dentist appointment in the
4 morning, you know, but when you -- Mr. Bailey could
5 probably speak. I don't know that attendance policy
6 off the top of my head, but I believe it's like after
7 8:00 or 8:30 arrival, it counts as a half a day, or if
8 you leave before a certain time, it counts as a day.

9 But my kids, as far as like missing a full
10 day of school, they wouldn't have missed a full day of
11 school unless they were sick or in the case of the
12 first week of school last January when Tony didn't
13 return them home, so I think that saying that Rocco was
14 having a hard time in school because he missed so much
15 of it, that's not accurate. That's not accurate.

16 And he's been taking the medication since
17 February, and he has -- I mean if you look at his
18 report cards and his behavior reports and talk to him
19 about how he feels as far as his self-esteem in school,
20 he turned it around and he's having a wonderful
21 experience.

22 THE COURT: Mr. McLeod, you have been very
23 patient.

24 MR. MCLEOD: Your Honor, regarding
25 attendance, Mr. Bailey is here if the Court needs to

1 hear more about that issue. Would you like to hear
2 more or are you going to let that go?

3 THE COURT: Let's let that go. We may hear
4 that at the trial.

5 MR. MCLEOD: Before I make an observation, if
6 I may, your Honor, the detective alluded to a U-tube
7 video that she believed was inappropriately posted on a
8 public network. We have a copy of that here if the
9 Court is interested in viewing that item. Would you
10 advise me whether you'd like to see that, your Honor?

11 THE COURT: Is it still on U-tube?

12 FRIEND OF THE COURT: The emails indicate
13 that after she mentioned that to him, that he agreed to
14 take it off. That's in his email.

15 THE DEFENDANT: I promptly -- she said I was
16 uncomfortable. She wants it off. I promptly turned it
17 off. We have several family videos that I've made
18 available. We don't have any trust or any common
19 networks.

20 MR. MCLEOD: Your Honor, regarding this
21 specific video that appears to be in question, would
22 the Court like to see that?

23 THE COURT: Not now. You admit there was a
24 video with the children in the underwear?

25 THE DEFENDANT: It was summer in Maryland and

1 yes.

2 MR. MCLEOD: Your Honor, may I make my
3 observation, please? I've been involved in this file
4 from the beginning, almost two years ago. During the
5 course of this proceeding, unfortunately Mr. Burkhart
6 passed away. He's out of the picture. Mr. Demetriou
7 stepped aside about six weeks ago. Immediately before
8 the mediation with Mr. Bock, which did not prove
9 fruitful, the point of order being I've had the
10 opportunity to observe Mr. Calice and his actions over
11 a two-year period.

12 In my opinion, observing his actions and,
13 more importantly, reviewing this type of stuff, he's
14 delusional. He has lost contact with the real world.
15 This repetitive phrase, Saginaw sponsored kidnapping,
16 I've heard every time I've communicated with him or his
17 then attorney Mr. Demetriou. He will not let it go.
18 He will not accept reality, and now he's creating
19 further issues.

20 My client, my client's mother, my client's
21 step-father, her sister are terribly concerned about
22 these children's well-being in his presence. I think
23 this guy's out of control, your Honor. I think he
24 needs professional help immediately, and I would fully
25 support Ken Bertram or anybody else immediately getting

1 involved.

2 We've got to get him under control. He sits
3 there. He presents himself well. He looks well, but
4 he's dangerous.

5 THE DEFENDANT: Your Honor, someone bit my
6 son on his penis, and we're not talking about that.
7 Mr. McLeod has a real nice red herring. The reason to
8 this, my son reported an issue that he himself does not
9 believe is resolved, and his mom said it's taken care
10 of, I'm not concerned. If he wasn't concerned, why did
11 he tell me? He told me because it's unresolved and he
12 doesn't feel valued or cared enough that his mom would
13 even talk to the principal or talk to anyone to follow
14 up on it.

15 Some bully bit him on the penis. He did
16 not -- and Melissa, this should have been shared with
17 me. We are joint legal as well as it should have been
18 shared with me all the doctors' appointments.

19 In fact, that mugshot was taken around the
20 same day when your Honor -- you were advising --

21 THE COURT: I may agree with you under the
22 joint legal that that should have been reported, but I
23 got to be honest, this has me concerned. I mean a lot
24 of this makes no sense to the Court. Do you think
25 calling him Timmy is appropriate, calling him the

1 dominative Timmy?

2 THE DEFENDANT: This was not -- this was
3 found on the site. This was on one of the sites.

4 THE COURT: I know, but you're publishing
5 this stuff for people to look at. Do you think -- do
6 you think that's going to impress the Court or anybody
7 else that sees this or sees photos of bombs?

8 THE DEFENDANT: The bomb was -- intention was
9 to tell -- it's a universal sign for danger. My son --

10 THE COURT: I know it is, and you put the
11 county insignia up there?

12 THE DEFENDANT: I wanted Saginaw County to
13 know that my son is in danger, and I hope that we can
14 talk to him and find it out.

15 THE COURT: Did you call the police
16 immediately? If you were that concerned, did you get
17 on the phone, if you were so dissatisfied with her, and
18 get on the phone and call the cops and say, hey, I
19 think my son's being sexually assaulted?

20 THE DEFENDANT: The Court told me that they
21 would meet -- I didn't because the Court said we were
22 going to have a meeting immediately, so I thought the
23 Court trumped police.

24 I contacted the principal, and thank you very
25 much, Miss Prine, for jumping in and having this. The

1 Court said we'd have a meeting.

2 Again, when my son told you about this bully,
3 I thought this Court's better than a police officer. I
4 thought Court trumps police. Same thing here; since I
5 heard that the Court was going to look into this sexual
6 assault, biting a sex organ, my son's penis, I was --
7 resolved that there's no place better than the Saginaw
8 Courts that would look into this one.

9 THE COURT: Yeah, but you're publishing all
10 this stuff at the same time and your emails.

11 THE DEFENDANT: I have -- I have documents
12 that are on my site.

13 THE COURT: What are you referring to, the
14 kidnapping?

15 THE DEFENDANT: The kidnapping, I do not want
16 to distract us from today's issue, but we can have a
17 discussion on that. There is an attorney that also,
18 unfortunately, is no longer with us that explained the
19 Michigan law and his quote's in there. His name is
20 John Mills.

21 It would be known that right after Saginaw
22 notarized, the court clerk said that Michigan was the
23 home. On September 11th, as bound by federal law,
24 Saginaw Bay correctly said that Melissa's address was
25 in Maryland, so federal law is in conflict with the

1 local law on where residency is. I think that is a
2 concern.

3 I'm interested in learning more about that.
4 I don't know if I can directly help my son in this
5 case. I'm still learning about it, but if there's any
6 other fathers, if I can somehow prevent this from
7 happening to someone else, that's the best that I can
8 do.

9 THE COURT: Well, I'm looking at an email
10 that you've got dated back September 12th talking about
11 an assault. I mean what's today? 18th, or whatever.

12 THE DEFENDANT: I sent it on December 12th.
13 Right after that email, the Court was very responsive.
14 Miss Prine was very responsive and engaged in an
15 immediate hearing.

16 I was -- I was very pleased, and I -- just
17 like I didn't report to do anything else when I knew
18 that my son told this Court about this bully, I was not
19 happy that I was here but also was immediately
20 comforted that someone in Saginaw is looking out for my
21 son, even though I believe he was brought here wrongly.

22 I was given that same assurance when I
23 contacted Principal Bailey because my wife wouldn't
24 talk to me or my estranged wife. She wouldn't tell me
25 about this. She would not tell me about this incident,

1 and she said you talk to the principal, which now
2 sounds like a set-up because of where it's here, and I
3 was immediately relieved when Miss Prine said the
4 Court's going to meet with us. I was a little
5 intimidated but now relieved and appreciative.

6 THE COURT: Another email, it says my son
7 signed out by my mother's -- minor's paternal
8 grandmother Mary -- how do you pronounce the last name?

9 THE DEFENDANT: Goddard.

10 THE COURT: -- Goddard to be interviewed by
11 the police in 2013.

12 THE DEFENDANT: 2012, I later found out.
13 I've looked. There's been several years, but that was
14 2012 and I was just curious if that was a similar type
15 of thing. There's a pattern where, instead of
16 reporting it as I should, they just do their own
17 investigation, don't tell anyone, and then the matter
18 is settled, which is what happened to my wife, and I
19 was concerned that that pattern was happening to my
20 children. I didn't bring it up before. It's not a
21 pattern until it happens twice.

22 THE COURT: I want to hear from Mr. Bailey.
23 Would you be kind enough to step forward? Good
24 morning.
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JAMES BAILEY,

Being first duly sworn at 11:35 a.m., testified under oath as follows:

D I R E C T E X A M I N A T I O N

BY THE COURT:

Q Your full name?

A James Bailey.

Q And you're the principal at?

A Hemmeter Elementary School.

Q You've heard what Miss Prine has had to say. Was that accurately relayed to me?

A Yes. A couple points to maybe clarify. Mr. Calice, when he contacted me the first time, had cc'd Ms. Prine on that email, so that was how it was introduced to the Court.

Q Can you talk to me, I guess not necessarily in the order of what I might call importance, but the missed days from school?

A Yes. I have Rocco's attendance record from last year. He missed 12 days of school, it looks like four full-day absences when Rocco was with Mom, and then two absences when he was out of state with Dad. The other absences are half-day absences.

And Mrs. Calice is correct, our attendance policy, if a child's arrives after 8:00 a.m., it's a

1 half-day absence, or if they leave before 2:00 p.m.,
2 it's a half-day absence. Where Mr. Calice gets the 18
3 days from is there were 18 instances, so 18 times Rocco
4 was out of school, but most of those were for half day
5 or for a part of the day.

6 Q Do the records that you have indicate why he was out
7 for the half days or --

8 A They do not.

9 Q All right. Is this record of concern to you knowing
10 this child and the fact that he's either been late or
11 half days or four full days?

12 A No, it's not.

13 Q How is this young man doing in school this year?

14 A He's doing very well. I have his most recent report
15 card. He's enrolled. Our school is a gifted and
16 talented school. We have scored in the 99 percentile
17 academically in the state for the past three years and
18 have been recognized as a rewards school, and Rocco is
19 achieving all advanced or consistently meeting
20 expectations in his subjects.

21 Q And the contact that you've had with this gentleman in
22 the past with Dad, have there been any concerns that
23 you've had?

24 A I was concerned the last time Mr. Calice came in. He
25 was very agitated about Rocco receiving medication. He

1 wanted to know the school's role in this. I explained
2 to him the school's role. He continued to get more and
3 more agitated and repeated the question over and over.
4 He had a counselor with him, I believe. She finally
5 stepped in and said, you know, Mr. Bailey's answered
6 your question, and they left.

7 Q Have you -- do you have any safety concerns? I don't
8 know the demeanor of these conversations and I guess
9 I'm trying to get a handle on these conversations.

10 A I am concerned just because of -- the conversations
11 seem to be getting more disruptive and more aggressive.
12 For example, with this latest one where he reported the
13 sexual assault to me, I told him I hadn't heard
14 anything about it. I would investigate. But already
15 in that email where he was first informing me about it,
16 he already had it on a public website that Hemmeter was
17 concealing sexual assault and what role did we have in
18 that concealment.

19 And so it was concerning to me that, you
20 know, before I was even asked about it or had a chance
21 to investigate it, already on a public website, he had
22 information that we had done that. And just from going
23 through the website, he also had some information on
24 there that we had failed to report a kidnapping, the
25 school had failed to report a kidnapping, and I didn't

1 know anything about the kidnapping at the time.

2 I later found out through talking to
3 Mrs. Calice that there was some sort of a parent
4 custody dispute where she didn't get the kids back on
5 time, but it wasn't something the school would have,
6 you know, any, you know, knowledge of.

7 Q He was making allegations that you failed to report a
8 kidnapping?

9 A Yes. It's on the web page, I think, that was
10 presented.

11 Q All right. Any other concerns? Do you have concerns
12 for safety?

13 A Just based on the erratic behavior and the -- our
14 meetings started out very friendly. They were awkward
15 because he did want to videotape all of our
16 conversations, but they seemed to be getting more and
17 more aggressive and I guess just disappointed that, you
18 know, instead of, you know, contacting me and asking
19 me, you know, questions where we could discuss this,
20 they seem to go on the website or --

21 THE COURT: Questions?

22 MR. MCLEOD: No, thank you.

23 THE COURT: Mr. Calice.
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C R O S S - E X A M I N A T I O N

BY THE DEFENDANT:

Q Mr. Bailey, I did it -- I had -- when this first happened, Rocco was enrolled in your school while he was simultaneously enrolled in the Maryland schools. I know that --

THE COURT: Questions.

BY THE DEFENDANT:

Q My question, when I did report that question, did I ask you for permission prior to that or did I record it without your knowledge?

A You did ask permission. He did ask permission before.

Q And that's -- I want to make sure so there is no accusation that I have surreptitiously been recording. Any recordings have either been left on my voice mail or I've asked for permission?

A No, other than I believe the last time you were in, you were taking pictures of the attendance sheet.

Q There was one incident, my father was here. I asked to check on the well-being of my children. Mr. Bailey said you can't see your children because they're in class, and then I noticed on the attendance sheet my children had been signed out 10 minutes prior and that Mr. Bailey had not told something accurate.

My father was right there, took the picture

1 and sent that to my attorney, Tom Demetriou, so he was
2 aware of the discrepancy between my coming in, asking
3 if I could check in on my children, and Mr. Bailey had
4 taken --

5 A On the day, Mr. Calice, to clarify, did not request to
6 see his children. He asked if he could say hi. I said
7 it wasn't school policy to pull kids out for parents to
8 say hello, and then he looked at the attendance sheet
9 and said, oh, I see they're not here. It was my belief
10 that he knew that they were not there at the time when
11 he came in.

12 BY THE COURT:

13 Q If he wants to know what's going on with the child at
14 school -- my kids are all grown at this point, but what
15 can he do in that regard? Do you have a website or --

16 A We have an email address. He can certainly call. I
17 tend to agree with Sue because they have been very
18 distracting. He doesn't schedule an appointment. He
19 just comes in.

20 And based on the information that's been put
21 on the website, I am a little concerned about him just
22 coming into the building because it has been a
23 disruption, but I'm happy any time to talk to him, and
24 I would encourage him, you know, if he has something.

25 I mean I'm disappointed that he heard about

1 this supposed sexual assault over Thanksgiving break,
2 but a week passed before I even received the email
3 about it. I think the first email I received was on
4 December 12th, so, you know, more than a full week had
5 passed before he even asked me about it, and even at
6 that time, he already posted it on the website that we
7 were trying to conceal something about it and we didn't
8 know anything about it.

9 I immediately followed up on it that day. I
10 got back to him. I let him know that none of it had
11 been reported to me, to the teachers, to the
12 supervisors. When I talked to Mom, she said that she
13 had talked to Mrs. Morford at conferences about some
14 conflicts between Hall and Rocco, but she didn't
15 mention anything to the teacher about biting in the
16 penis, so the school had absolutely no knowledge, but,
17 you know, he's already posted this on the website.

18 And then just to follow up as well, he had
19 asked about the Court contacting me about some bullying
20 between Hall and Rocco. One of the court officers did
21 call after that. We talked about it. I shared with
22 her that the student involved in the bullying was
23 having behavioral issues. We were going through the
24 process that we do when students come in having
25 behavioral issues. We had a team together working on

1 intervention to help him.

2 I did not feel that Rocco was being targeted
3 by him. The student was having trouble with lots of
4 different students in the school because of impulsivity
5 issues, and I shared that with the person from your
6 office that contacted me.

7 I spent some time observing them afterwards,
8 too, investigated a little bit more, and the only
9 incident that I have involving Rocco and Hall that
10 ended up coming to me was actually an instance where
11 Rocco was the one that was being aggressive. Hall was
12 placed on a little spot on the playground where we were
13 keeping him until he could prove that he could go in a
14 bigger area, and Rocco was actually running in his area
15 trying to tag him and get Hall to chase him, typical
16 first grade, you know, behaviors and things, so --

17 Q Out of curiosity, when did that happen? Recently?

18 A No. It was last year. I think all of these, you know,
19 concerns between Hall and Rocco, when -- the biting
20 incident, the roughhousing on the playground, and when
21 your representative contacted me, all happened at the
22 same time.

23 FRIEND OF THE COURT: It was Miss Hogenson
24 I've discovered now.

25 BY THE COURT:

1 Q Did you see any indications or were any indications
2 reported to you that this child was not acting normal,
3 that something was going on in his life, that he's
4 pulling into himself, he's not acting as a normal child
5 that age?

6 A Hall or Rocco?

7 Q Rocco.

8 A No.

9 THE COURT: Any other questions?

10 MR. MCLEOD: No.

11 THE COURT: Any questions?

12 BY THE DEFENDANT:

13 Q Mr. Bailey, I -- I am -- I'm first concerned about my
14 son.

15 A As am I.

16 THE COURT: Only for questions.

17 BY THE DEFENDANT:

18 Q Would it be possible for me to have an audience in any
19 circumstance, possible for me to introduce myself in
20 any way that you would desire? I would like to talk to
21 Hall's parents.

22 THE COURT: I'll address that.

23 BY THE DEFENDANT:

24 Q Is that something that would be allowed?

25 A I have contacted all the parents. They're aware of the

1 situation.

2 Q I would like to introduce myself so there's a two-way
3 street. This is -- I believe, as parents, Melissa and
4 I should be united from, but I believe it would be best
5 if there was a dialogue between parents of Hall and the
6 parents of Rocco, and I -- I am -- I just want to make
7 sure that Hall himself is not --

8 A Hall's parents are aware of the situation. I don't
9 think they're interested in meeting you.

10 THE COURT: All right. Okay. Thank you.
11 Thank you. You can step down. Thank you for being
12 available. Anything further, Miss Prine? I guess,
13 Miss Dougherty, do you have any comments or, again,
14 Miss DeCastro, anything?

15 FRIEND OF THE COURT: Judge, I think Miss
16 Prine has covered basically the discussions we have had
17 at our office. I wouldn't have anything further to add
18 other than what's been said. We do believe, however,
19 that it was Miss Hogenson that spoke with the school.

20 THE COURT: On the bullying issue?

21 FRIEND OF THE COURT: On the bullying issue.

22 THE COURT: Thank you. Any argument or
23 comment?

24 MR. MCLEOD: No. I'm just going to renew my
25 prior observations about what I believe needs to be

1 done at this point in time, not only move this matter
2 forward but protect these children against any threat
3 or further harm.

4 THE COURT: Okay. Miss Prine, do you have
5 any --

6 FRIEND OF THE COURT: I don't, Judge. My
7 recommendation has not changed.

8 THE COURT: All right. Mr. Calice, do you
9 understand what's being requested?

10 THE DEFENDANT: My understanding of the
11 request, I've requested that this incident be looked
12 into. It's now been confirmed that Rocco was bit on
13 the penis. This was not shared with me. I stand
14 corrected. I thank you for -- I am much happier to
15 find out the Court did in fact contact the school. I'm
16 glad to know that. I am concerned that my son was bit
17 on the penis.

18 FRIEND OF THE COURT: Judge, we are mandatory
19 reporters. I was waiting for this hearing. When I get
20 an allegation like that, I would report it. They can
21 look into it. They might find it unsubstantiated.

22 THE DEFENDANT: This was confirmed by Rocco's
23 mother that he was bit on the penis.

24 FRIEND OF THE COURT: That's all in the
25 referral that I'm going to make.

1 THE COURT: Go ahead and make the referral
2 for today.

3 The Court would note I've listened carefully
4 to all parties. The Court's very familiar with this
5 case and very familiar with how intense the parties are
6 in regards to this child. The Court has had an
7 opportunity to look at the emails as set in Exhibit 1.

8 I should note, I gather, also, Miss Prine,
9 there's some circles and X's on some of the emails.
10 That's your writing?

11 FRIEND OF THE COURT: It is. It's
12 repetition --

13 THE COURT: So you X'd out the repetition or
14 repeated emails where they're printed.

15 I've also looked at the slide show, for want
16 of a better term, which is Exhibit 2 entitled Saginaw
17 sponsored kidnapping, supporters of Rocco's law and
18 state's sponsored kidnapping and references that are
19 made in there.

20 The Court, as indicated, has particular
21 concern with the fact that this gentleman indicated on
22 one of the pages, he's got a bomb with the fuse of the
23 bomb pointed at the County seal with a target on one of
24 the individuals, his picture on the next page and
25 comments, by the way, here's an updated photo for

1 Honorable Borchard's desk, I hope that looking at it
2 will remind you about how serious child endangerment
3 it. I think he means is. This is the type of thing
4 that happens, Saginaw sponsored kidnapping.

5 The Court notes that this matter is set for
6 January 1st for trial. Is there any reason that we
7 would not be able to begin trial on that date,
8 Mr. McLeod?

9 MR. MCLEOD: Well, the only reason --

10 THE COURT: I understand what's been
11 requested.

12 MR. MCLEOD: There is no reason we can't
13 start trial as regards the asset and liability issues.
14 Those are pretty well defined. But now we have to
15 overlay that with all of the renewed child issues. I
16 don't know if the Court can effectively do that,
17 bifurcate it in that way, and I guess I would look for
18 some direction in that regard, your Honor, of what
19 court we might find ourselves in on that date.

20 THE COURT: All right. The Court is going to
21 grant the request of the Friend of the Court. I am
22 going to refer this matter back to Miss Hogenson for a
23 recommendation as it relates to joint custody. I do
24 want her to reinterview the parties. I would ask that
25 these exhibits be provided to Miss Hogenson prior to

1 the reinterviews so she can go through those and in
2 detail.

3 The Court is also going to order a
4 psychological evaluation done on Dad. I want that done
5 on either January 6th, 8th, or 10th. The Court's also
6 ordering the report on the alleged sexual incident as
7 been referenced by the parties. I'd also like Miss
8 Hogenson again to talk with Principal Bailey.

9 The Court is going to further order that the
10 father is not to be on school property. If he wants
11 any contact in regards to how the children are doing,
12 he can make contact through the website or you can make
13 a phone call and schedule a time and that's a
14 reasonable contact. That isn't every day. That's not
15 showing up to say hi to the kids. It's to talk with
16 either Mr. Bailey by phone at a scheduled time or with
17 the teacher of a scheduled time, and that isn't to be
18 every week, every month, or whatever. I assume there
19 are regular report cards and so forth I want to be
20 given to this gentleman.

21 The Court is going to suspend parenting time
22 over the Christmas break and the Court will consider
23 making up that parenting time following trial if that's
24 the direction that the Court ends up going. Was
25 Skyward -- was that the name --

1 FRIEND OF THE COURT: It is, Judge.

2 THE DEFENDANT: It's no longer. It's no

3 longer. I went on it. It's no longer. It's a

4 different system. Sorry, your Honor.

5 THE COURT: Maybe if you could let Miss --

6 MR. BAILEY: It could be down for maintenance

7 but it's still in the system.

8 THE COURT: If there is a problem, get ahold

9 of Miss Prine.

10 FRIEND OF THE COURT: So he can get that

11 information himself right through there?

12 THE COURT: Yes. And have I missed anything

13 else?

14 THE DEFENDANT: Your Honor, there is one

15 other thing that was missed. The plaintiff has

16 admitted that she is in contempt of the joint legal

17 custody and has been disregarding that from the

18 beginning.

19 MR. MCLEOD: Your Honor, that's not before

20 the Court this morning.

21 THE DEFENDANT: What is -- there's a doctor's

22 appointment tomorrow. I would like to be present for

23 that doctor's appointment for, at the very least, I

24 would like that doctor to have a proper patient history

25 on my children, specifically when it comes to skin

1 allergies.

2 It's an issue in our family where doctors
3 will improperly diagnose eczema when in fact my
4 children have allergies to certain natural fibers.

5 THE COURT: Are you familiar with what he's
6 talking about?

7 THE PLAINTIFF: He is just, your Honor --

8 THE COURT: Is there a history of skin
9 allergies, I guess, in his family?

10 THE PLAINTIFF: We have -- my children
11 have -- we have seasonal allergies. This is the kind
12 of stuff that he does, your Honor. He just -- it's
13 scary. He's crazy.

14 THE COURT: Do you have anything, though, in
15 regards to -- other than seasonal allergies, are you
16 aware of anything else?

17 THE PLAINTIFF: No.

18 THE COURT: Do you have any medical records
19 on allergies?

20 THE DEFENDANT: Yes. My cousin is in a Phase
21 III drug trial, weaning himself off of topical steroids
22 that were inappropriately prescribed to him for skin
23 allergies. It was determined that he had eczema, it
24 was inappropriate, and he's now physically addicted.

25 I've been teaching my children how to ask are

1 there steroids in that and is there a nonsteroidal
2 alternative. I've been teaching them about certain
3 fabrics, that it is okay for them wear and certain ones
4 that it's not okay for them to wear, because I can't --
5 if I can't meet with them in the doctor's office, I
6 want them to at least have my knowledge to know how to
7 ask the doctor the right questions.

8 THE COURT: Whatever concerns you have in
9 that regard, if you'll get those typed up and get them
10 over to Mr. McLeod, will you see that Mom gets them?

11 MR. MCLEOD: I will certainly do that --

12 FRIEND OF THE COURT: Let me --

13 MR. MCLEOD: -- and if it revolves around
14 this issue --

15 FRIEND OF THE COURT: First of all, he pays
16 for the psych, they split the cost for Jill Hogenson.
17 I believe I have prepared an order that does not
18 mention phone calls. I will bring over a corrected
19 order, or if you want to sign that order, I will do an
20 amendment to that.

21 THE COURT: I don't have any. I just -- I
22 want you to do the order as I've indicated.

23 FRIEND OF THE COURT: Okay. And then, Judge,
24 pending the review on joint legal, is she to have sole
25 legal?

1 THE COURT: Yes. And --

2 FRIEND OF THE COURT: Make-up is reserved.

3 THE COURT: Is reserved. And when can we get

4 this matter on assuming that he gets his report in?

5 When, in February, can I have these folks for trial?

6 FRIEND OF THE COURT: We'll have Ken

7 Bertram's report by, I'm thinking, and Jill's in by

8 mid-February or shortly thereafter.

9 THE COURT: You said you talked to him, so he

10 can get a report?

11 FRIEND OF THE COURT: Yeah. He's waiting.

12 THE COURT: All right.

13 (Discussion off the record.)

14 THE COURT: Well, we're going to -- I'm going

15 to tell the parties we're going to have to get back to

16 you on the new trial date.

17 THE CLERK: I can schedule it for the week of

18 March 17th, Judge.

19 THE COURT: All right. If we can get it on

20 sooner, we may get it on sooner.

21 THE DEFENDANT: So does that mean I can't see

22 my children at all now?

23 FRIEND OF THE COURT: He lives in Maryland.

24 We are dealing with Christmas and --

25 THE COURT: Until I get all these reports and

1 records. If it's an issue, we'll do make-up. Anything
2 further? Schedule it, and we may -- and we'll talk
3 after, and if there's any way when we can sit down and
4 look at that schedule, maybe we'll move that up.

5 How much time are you going to need coming
6 from Maryland? Are you working?

7 THE DEFENDANT: I can't work while I'm here.
8 My plan had been to come here, talk to Principal
9 Bailey, talk about this matter, and my plan was to
10 return back to Maryland on our trial I thought we were
11 going to have in January.

12 THE COURT: Are you working?

13 THE DEFENDANT: Yes, I am working. It's
14 primarily -- I have to be on-site in Maryland during
15 the middle of the week, but I'm taking time off between
16 now and January 6 when our trial was supposed to
17 happen, so I am working and I've been -- to answer your
18 question, I am working.

19 FRIEND OF THE COURT: Judge, it can be
20 scheduled for the evening of the 6th and if there's
21 needed more time, two days later, the evening of the
22 8th with Ken Bertram if he's already requested that
23 time off and he wants the earliest date, so --

24 THE COURT: If at all possible, get ahold of
25 him today and at least get that taken care of, if you

1 can work out some other arrangement that's convenient
2 with him, as long as it's no later than that, if you
3 would work with him on that.

4 THE DEFENDANT: My email works everywhere.

5 FRIEND OF THE COURT: Okay. Fine. I'll
6 bring an order to be signed today, Judge.

7 THE DEFENDANT: Could this also go to
8 Miss Hogenson? These are the sign-up sheets relating
9 to the sign-up sheets.

10 THE COURT: I'll make sure she gets them.

11 FRIEND OF THE COURT: I'll take them.

12 THE COURT: Let's put that date in there, but
13 my only concern is Bertram may not have his report
14 done.

15 THE CLERK: Take the 6th off?

16 THE COURT: No. Leave both of them on.

17 THE CLERK: 27th, as well, January.

18 THE COURT: You're going to want to contact
19 Miss Prine, and if we've got the reports, we are ready
20 to go, we'll go that date. Otherwise, it will be
21 March.

22 FRIEND OF THE COURT: I can contact Ken
23 Bertram right away when I get back, and I'll let
24 Mr. Calice know the dates and where the location is.


25 THE COURT: Thank you all.

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(Proceedings adjourned.)

1 STATE OF MICHIGAN)
2) SS
3 COUNTY OF SAGINAW)
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8 I certify that this transcript is a complete, true
9 and correct transcript of the proceedings and testimony
10 taken in this case before the Honorable Fred L. Borchard,
11 Circuit Judge, in Saginaw, Michigan.
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17 
18 Tracy M. Stemler, CSR-4023
19 Official Court Reporter
20 111 South Michigan Avenue
21 Saginaw, MI 48602
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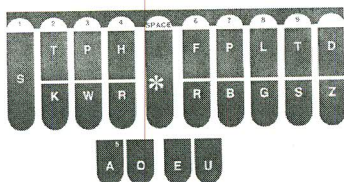
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Tracy Stemler, CSR
Official Court Reporter
111 S Michigan Avenue
Saginaw, MI
48602

Invoice

Ref #: 000056

Date: Jan 16th 2015

To:

Richard Anthony Calice

Copy of transcripts of hearings held before the Honorable Fred L. Borchard on 10-08-2012 and 12-18-2014

Item	Description	Unit Cost	Quantity	Cost (USD)
12-017215-DZ-1	Calice v Calice	1.00	15	15.00
12-017215-DZ-1	Calice v Calice	3.25	75	243.75
Add Item				

Sub Total	258.75
Total Amount (USD)	258.75
Paid to Date	0.00
Balance	\$258.75

Payment due **on receipt**.

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STATE OF MICHIGAN
IN THE 10TH JUDICIAL CIRCUIT-FAMILY DIVISION

MELISSA J. CALICE
PLAINTIFF

ORDER PROHIBITING CONTACT WITH
SCHOOL, RULING ON JOINT LEGAL CUSTODY,
REFERRAL FOR PSYCHOLOGICAL EVALUATION,
SUSPENDING PARENTING TIME
FILE NO. 12-017215-DZ-1

VS

RICHARD A. CALICE JR.
DEFENDANT

pel
A TRUE COPY
Susan Kaltenbach, Clerk

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE IN THE CITY AND COUNTY OF SAGINAW,
STATE OF MICHIGAN, THIS 18th DAY OF December, 2014

PRESENT HONORABLE FRED L. BORCHARD, CIRCUIT COURT JUDGE

This matter having come on for hearing on Thursday December 18, 2014 regarding Notice for Emergency Hearing set by the Friend of the Court Office, both parties having appeared at that time, along with Attorney Timothy McLeod, representing Plaintiff-Mother, Principal James Bailey from Hemmeter Elementary School in Saginaw Township District having also appeared, Township Police Detective, Mindy Worden having also appeared, and the Court having heard the statements of those present at the hearing, the exhibits admitted, and the testimony of James Bailey and the Court having made a ruling regarding issues presented, and the Court being fully advised and informed in the premises, orders as follows:

IT IS ORDERED that pending a trial on this case, Plaintiff-Mother shall have sole legal custody of the minor children and the matter of joint legal custody is preserved for trial on this case, and the matter of joint legal custody is referred to Jill Hogenson for investigation. Defendant is allowed to present to Plaintiff's Attorney questions to be provided to the minor children's physician regarding their skin/allergy ailments. The parties shall share equally the cost of the investigation.

IT IS FURTHER ORDERED that prior to the interviews by Ms. Hogenson, Defendant is referred to Dr. Ken Bertrum for a psychological evaluation. Defendant shall bare the cost.

IT IS FURTHER ORDERED that pending trial on this matter, and until further order of the Court, Defendant is prohibited from appearing on the property of any of the schools of Saginaw Township Community Schools, and is also prohibited from communicating with any staff members of the school district by telephone, unless prearranged through James Bailey. Defendant may also contact the school by written communication, only with reasonable requests and concerns. He may also access Skyward where he may access progress of his children, including attendance, academic process (including grades), and disciplinary action.

IT IS FURTHER ORDERED that Defendant's parenting time, including Christmas time, is suspended until further order of the Court, and any make-up time is reserved for trial.

IT IS FURTHER ORDERED that Susan K. Prine shall make a referral to Protective Services regarding Defendant's claims of alleged sexual abuse upon the minor child, Rocco.

FRED L. BORCHARD P11003

FRED L. BORCHARD CIRCUIT COURT JUDGE

Countersigned:

151

Deputy Clerk

PREPARED BY

FRIEND OF THE COURT

CERTIFICATE OF MAILING

I certify that on this date I mailed by ordinary mail with first class postage fully prepaid a copy of the foregoing to the parties and/or their counsel at their address as shown by the records of the Friend of the Court.

12-18-14

Date of Mailing


Friend of the Court Staff